provisioning of unbundled loops does not have a direct analogy to any Ameritech retail function, so Ameritech points to the specific, "objective performance standards" contained in its contracts as the appropriate measure of non-discriminatory provisioning, asserting that these standards are "based on Ameritech's experience and consider the unique nature of each request for access to unbundled network elements." Mickens Aff. ¶ 24. Yet Ameritech does not provide in its application the information sufficient to measure whether these contractual intervals have been achieved.[46]

Ameritech's proposed measure of due dates not met, while an important measure on its own, does not capture the information necessary to determine installation intervals. Similar to the resale scenario above, it is conceivable, for example, that Ameritech might report only 10% due dates not met but this would not reveal that the "missed" due dates were all orders where the CLEC had requested the standard interval while the "met" due dates were all orders for which the customer had requested an extended installation.

3. Comparative Performance Information for UNEs

Unlike its report for resold services, Ameritech's performance report for unbundled network elements (UNEs) contains no information permitting a comparison between Ameritech and its competitors. While there may be fewer measures that can be compared in a UNE

[46]Mickens's affidavit provides a more detailed analysis of the performance results for Brooks Fiber, a Michigan CLEC using Ameritech loops, Mickens Aff. ¶¶ 51-61, but this information is not reflected in the performance reports Ameritech has committed to provide on an ongoing basis. Moreover, as discussed above, Brooks has disputed Ameritech's measure of the results.

environment,[47] a number do exist. Ameritech has discussed some of them in the Mickens Affidavit, for instance where he compares the due dates not met for Brooks Fiber and for Ameritech retail. Mickens Aff. ¶ 51.[48] Ameritech's retail results for trouble report rate, receipt to restore, and out of service over 24 hours are included as comparable in its resale reports and there is no obvious reason why they could not be similarly reported on the unbundled loop reports.

4. Other Missing Measures

There are other performance measures which are discussed in the Friduss affidavit but are not apparent in Ameritech's proposed reporting plan. These include certain measures of ordering (service order accuracy and percent flow through, [49] Friduss Aff. ¶ 62), provisioning (held orders and provisioning accuracy, id. at ¶ 63), and billing (bill quality or accuracy, id. at ¶ 66). Also missing for UNEs are repeat reports, a critical measure of customer-affecting functionality. Id. at ¶ 64. Ameritech provides this measure for resale but does not do so for its unbundled loops

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[47] But see MPSC Consultation at 31, "Although exact parity of operations may not exist on the retail and wholesale operations, instances which are substantially analogous should be utilized for purposes of comparison. For example, as was suggested by DOJ, 'the provisioning of an end-to-end combination of loop, switching, and transport elements is, in some cases, analogous to a BOC's retail POTS line. In such cases, the Department would normally expect a BOC to process an order in the same automated fashion that it processes retail POTS lines.'"

[48] Although Mickens claims that missed due dates for unbundled loops are not comparable to missed due dates for Ameritech retail POTS "because the provision of unbundled loops is fundamentally different from the provision of bundled local service", Mickens Aff. ¶ 51, this explanation goes to why the actual installation interval for unbundled loops cannot be compared to actual installation for retail POTS. The fundamental difference described is appropriately reflected in the differing installation intervals and not in the missed due dates measure.

[49] Ameritech has provided some discussion of order flow-through in Rogers Aff. ¶¶ 37-41.

performance reports.

5. Need for Specific and Clear Definitions

In order for performance reports to be meaningful and useful, the relevant measures must be specifically and clearly defined. Without such definition, the reports will be meaningless if not actually misleading to a CLEC or regulator. "[C]ycle-time performance measures are dependent on the specific definition of start and stop times, while reliability measures are dependent on the specific definition of what constitutes a failure." Friduss Aff. ¶ 23. The MPSC recognized the importance of this in its list of criteria: "A specific determination of how measurements should be made must be delineated. If orders received late in the day are treated as next day orders, this should be specified and performance of Ameritech's retail operations should be similarly measured." MPSC Consultation at 32. Before Ameritech's proposed performance measures can be considered sufficient to judge non-discrimination and detect post-entry backsliding, they must be specifically and clearly defined.

Ameritech has recognized the need for agreement on the definitions of tracked measures. As Mickens states, "any meaningful performance measurement analysis requires a common understanding of timing procedures." When "it became clear that Ameritech and an Illinois-based CLEC, Consolidated Communications Telecom of Illinois, Inc. ("CCT") were not measuring or reporting repair time in the same manner," Mickens Aff. ¶ 40, Ameritech and CCT met, isolated and discussed the differences between their measurements, and agreed upon a joint definition and process to use going forward.[50] Mickens describes these steps in detail in his

[50] See generally Mickens Aff. ¶¶ 38-40; Illinois Commerce Commission, Investigation concerning Illinois Bell Telephone Company's compliance with Section 271(c) of the Telecommunications Act of 1996, Docket No. 96-0404, Supplemental Direct Testimony of

affidavit. Id. It appears that the same process may still need to occur with regard to ordering and provisioning measurements, among others. See MPSC Consultation at 26 ("It has not been determined how some proposed standards will be measured. The primary example of this is the huge difference between the data provided by Brooks and the data provided by Ameritech in regard to assessing whether unbundled loops have been installed on time.") Ameritech's stated definition for service due dates reads only "The agreed-upon date when service order is due," Mickens Aff. at Attachment 5, Section 3, and does not detail Ameritech's specific measuring procedures such as counting orders received after 3 p.m. the next business day, and excluding weekends and holidays from the calculation. Nor does the stated definition make clear Ameritech's practice of measuring relative to due dates it has defined rather than those the CLECs had requested. See Section B.2.a., above. Regardless of which measure is more representative of performance, [51] this lack of clarity reduces the value of the performance measure.

In addition, Ameritech's definition of due dates not met, relating "the number of missed appointments to the total number of appointments in the reporting period" does not reveal that the measure includes only installations completed past due and excludes orders which are pending past due. Ameritech may have an appropriate reason for excluding pending orders from its due date calculation, and has, in fact, included an analysis of pending orders in the text of

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Warren Mickens, at 8-10 (Apr. 4, 1997).

[51] But see Friduss Aff. ¶ 23 (missed appointments "should be measured against the original due date; due date changes could only be considered when explicitly requested by the end user").

Mickens's affidavit,[52] but the lack of clarity in the definition of the measure may cause confusion.[53]

6. End Office Integration (EOI) Trunks

Ameritech provides testimony concerning its EOI trunk offers and associated wholesale support processes. According to Mayer's affidavit, to mitigate trunk blocking CLECs can request additional trunking to augment existing EOI trunk groups, they can request two-way trunks, and they can request trunks that directly connect Ameritech end offices to a CLEC switch.[54] In addition, Mayer recommends that CLECs establish points of interconnection (POI) with each tandem in the LATA to provide alternate interconnection paths for when one trunk group is (temporarily) at capacity.

The Department commends Ameritech's efforts to provide effective wholesale support processes for EOI trunks. There is evidence to suggest, however, that Ameritech has not provided CLECs with sufficient ability to control EOI trunk blockage. In particular, TCG describes an effort lasting more than six months to resolve blocking problems in Chicago and Detroit.[55] It claims to have attempted to resolve the blocking problem through each of the

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[52] See Mickens Aff. ¶¶ 102-103 (4,000 pending resale orders, 1,500 pending past due; 1,030 unbundled loop orders, 172 pending past due).

[53] See PSCW Second Order at 19: "Ameritech's measure of due dates met was inaccurate as it did not consider overdue orders still pending as having missed due dates. An analysis of due dates not met should include overdue pending orders as a due date not met."

[54] Mayer Aff. ¶ 36.

[55] TCG Comments at 4-8 and Pelletier Aff. ¶¶ 10-24.

alternatives described in the Mayer affidavit.[56]

The Department is also concerned that CLECs may not have access to the data needed to solve EOI blocking problems when the blocking occurs on the Ameritech side of the POI. Specifically, CLECs cannot identify which Ameritech end offices are candidates for EOI trunks without access to Ameritech network call flow data. Ameritech has this data, but to our knowledge it has not provided it to any CLEC, nor has it committed to do so. Without such information to identify the sources of blocking, it may be unreasonable to expect CLECs to propose costly network reconfigurations.[57]

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[56] TCG has a POI at each of the three tandems in the Chicago LATA. However, it questions whether its NXXs are routed to alternative POI when the initial POI is blocked. TCG has also requested both two-way trunking and trunks between Ameritech end offices and the TCG switch. It maintains that Ameritech has refused to provide either of these facilities. TCG Comments at 5-8.

[57] Ameritech claims that CLEC competitors would be able to monitor Ameritech's performance using their own OSS data and Ameritech's public regulatory reports, Ameritech Brief at 91, but that argument appears inapplicable where CLECs do not have this information.

APPENDIX B

Michigan Overview and Descriptions of Local Competitors in Michigan

Michigan is the nation's eighth most populous state, with over 9.5 million inhabitants, and is the second most populous state in the Ameritech region. 70.5% of its population is in metropolitan areas, according to U.S. census data. Of Michigan's five LATAs, two contain significant metropolitan areas centered around Detroit and Grand Rapids.[1] Detroit, with a population of about 1 million, is among the ten largest cities in the U.S, and its greater metropolitan area has a population of some 5.2 million, while the city of Grand Rapids has a population of 190,000, with some 1 million persons in its metropolitan area. These urban concentrations could reasonably be expected to attract local telephone competition in the absence of entry barriers, and indeed have begun to do so on a small scale. Michigan is also the ninth largest state in terms of long distance traffic nationwide, with 17,899,649,000 interLATA access minutes in 1995, 3.25% of the total.[2]

As of 1995, there were over 6.1 million access lines in Michigan, including 5.5 million switched access lines.[3] Of these, Ameritech Michigan had 5.5 million access lines (90% of the total), including 4.8 million switched access lines (88% of the total),[4] the great majority of the remainder being served by independent LECs in separate service areas, rather than competitors in

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[1] Two of the remaining LATAs are centered around Lansing and Saginaw, and the last is in the more rural Upper Peninsula.

[2] FCC 1996 Common Carrier Statistics at Table 2.6

[3] FCC 1996 Common Carrier Statistics at Table 2.5

[4] FCC 1996 Common Carrier Statistics at Table 2.10

its service area. In 1996, Ameritech Michigan served between 4.9 and 5.1 million switched access lines.[5] Of Ameritech's access lines in Michigan, 4.5 million are located in metropolitan areas,[6] with nearly half of Ameritech's lines, some 2.3 million, in the Detroit LATA.[7] In 1996, Ameritech had about 1.7 million business and 3.2-3.3 million residential switched access lines throughout Michigan.[8] Data in Ameritech's brief and supporting affidavits, together with information in the comments and other public documents of competitors, identifies a total of between 67-80,000 access lines in service or ordered by local exchange competitors in Michigan,[9] and while service resale has grown more recently, total lines actually served by

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[5] FCC ARMIS Annual Summary Report 43-01, Michigan Bell Telephone Company, 1996, at Table II, row 2150 (4.931 million billable common lines), and FCC ARMIS Annual Service Quality Report 43-05, Michigan Bell Telephone Company, 1996, at Table II, row 0140 (5.081 million access lines). The 1996 10-K Annual Report for Ameritech Corporation, at 3, states that Ameritech had in Michigan 4.979 million access lines in service at the end of 1995, and 5.124 million access lines in service at the end of 1996, a difference of 145,000. Ameritech's own growth in access lines served in Michigan between 1995 and 1996 exceeded the aggregate number of lines served by all of its local competitors. See also AT&T Comments at 32-36, 41.

[6] FCC ARMIS Annual Service Quality Report 43-05, Michigan Bell Telephone Company, 1996, at Table II, row 0140.

[7] Presentation to Department of Justice by AT&T Corp., Ameritech Region (Derived from April 1996 ARMIS Report) (August 19, 1996).

[8] FCC ARMIS Annual Summary Report 43-01, Michigan Bell Telephone Company, 1996, at Table II, rows 2090, 2120 and FCC ARMIS Annual Service Quality Report 43-05, Michigan Bell Telephone Company, 1996, at Table II, row 0140.

[9] The highest estimate of 79,200 lines that can be derived from Ameritech's Harris and Teece Affidavit, Table III.6 (proprietary version), including separate facilities, unbundled loops, and resold lines, overstated the extent of actual competition at the time. Harris and Teece Aff. at Table III.6, 73. Harris and Teece's calculations of competitors' on-net facilities were not based on actual numbers but on estimates from a formula that produced results inconsistent with information from other parties, especially MFS, and with respect to facilities obtained from Ameritech, Harris and Teece included not only unbundled or resold loops in service but also

competitive providers in Michigan appear to still be no more than 70,000-80,000, correcting for overestimates in Ameritech's data.

Thus, the aggregate market share of CLECs, measured by total number of access lines statewide using all forms of competition (separate facilities, unbundled loops and resale), appears to be between 1.2% and 1.5%.[10] The CLEC market share measured by revenues is likely slightly higher because the CLECs are focused primarily or entirely on business customers, while nearly

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those on order from Ameritech but not yet delivered, which means that the customer is still with Ameritech. Brooks lists its total lines in service in Grand Rapids as of June 1997, as 21,786, Brooks Opposition at 6-7, substantially lower than the Harris and Teece estimate, and MFS/WorldCom has also strongly criticized Ameritech's data as inaccurate. WorldCom Comments at 4. The data in Ameritech's brief on competitors' lines yields a slightly smaller aggregate CLEC total of about 71,000 competitor lines, but also relies on the estimates from the Harris and Teece Affidavit that overstate the amount of competition. Ameritech Brief at 10-11, 36, 44, 54 (proprietary version). MCI states that CLECs own or lease at most 67,000 access lines in Ameritech Michigan's region, MCI Comments at 2 and Affidavit of Kenneth C. Baseman and Frederick R. Warren-Boulton ¶ 68, n.52, attached to MCI Comments, Exhibit A., while an affiant for AT&T, using Ameritech's data, has calculated the total as 76,269 lines while noting the likelihood of overestimation. Affidavit of Michael Starkey ¶ 15 ("Starkey Aff."), attached to AT&T Comments, Exhibit T. Some of the data on individual competitors has been claimed as proprietary in Ameritech's filing, and so the Department does not provide separate figures for each provider in its public Evaluation, but these aggregate totals do not reveal any particular competitor's proprietary information.

[10] A market share of about 1.5% can be derived from data in Ameritech's Harris and Teece Affidavit, Table III.6 (proprietary), although this data overstated the extent of actual competition at the time. The data in Ameritech's brief on competitors' lines yields a slightly smaller market share of 1.3%, based on Ameritech's total access lines in 1995. MCI has estimated the CLECs' market share in Michigan as 1.2%, compared with Ameritech's total access lines, MCI Comments at 2, while AT&T, using Ameritech's data, has estimated the CLECs' market share as at most 1.5%. AT&T Comments at 41; Starkey Aff. ¶¶ 7, 15-17. Adjusting the totals of CLECs' lines to account both for the overestimates in Ameritech's data and further information available on the growth of resale since that data was compiled would yield a maximum aggregate CLEC market share in Michigan of about 1.5% of total access lines, based on an upper bound of 80,000 CLEC lines compared with Ameritech's 5.5 million total lines in 1995.

two-thirds of Ameritech's lines are residential.[11] In Grand Rapids, where the greatest degree of local competition exists, CLEC market share measured by number of lines served by central offices with collocation is 5.9%,[12] and CLEC market share, measured by revenues generated by lines in collocated central offices is approximately 11.4%.[13]

There are seven firms that the Department has identified as operational facilities-based

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[11] For example, Brooks has reported its revenue in Grand Rapids to be $75.37 per line, "Brooks Fiber's Properties Reports Record, First Quarter Revenues" <www.Brooks.net, Q1_table.pdf> (posted Apr. 28, 1997), while the revenue per line for Ameritech can be estimated from published data at $44.77 if only basic local service and network access service is included, or $64.56 if all revenue sources, including intraLATA toll, are included. Based on these figures, the CLECs' aggregate share of local revenues in Ameritech's Michigan service areas is probably not more than 2-3%.

Ameritech's Michigan operations generated approximately $2,948,826,000 in combined basic local service, network access service, and toll network service revenues in 1996, or $3,154,539,000 in total. Basic local service revenues were $1,408 million, network access services revenues were $779 million, and toll network services (intraLATA toll) were $761 million. FCC ARMIS Annual Summary Report 43-01, Michigan Bell Telephone Company, 1996, at Table I, rows 1010, 1020, 1030. Ameritech's Michigan operating company revenues represented 27.88% of its total revenues from its local operations regionwide in 1996, second only to those from Illinois. Total Ameritech revenues from its local operating companies regionwide in 1996 were $11,312,077,000, including $3,553,987,000 from Illinois, $1,219,155,000 from Indiana, $2,213,842,000 from Ohio, and $1,170,554,000 from Wisconsin, as well as the Michigan revenues stated above. Ameritech 1996 FCC ARMIS Annual Summary Report 43-01 for Illinois, Indiana, Michigan, Ohio, and Wisconsin.

[12] 343,000 lines are served by the 11 central offices in which Brooks is collocated, according to "Brooks Fiber Reports Results of Operation of Grand Rapids, Michigan Unit for Competitive Switched Services" <www.Brooks.net> (posted Oct. 24, 1996). Brooks had 21, 786 lines in service in Grand Rapids as of June 1997. Brooks Opposition at 6-7.

[13] This estimate assumes Ameritech's revenue is uniformly distributed across lines. Brooks Fiber's annualized revenue figure is reported in its first quarter results. "Brooks Fiber's Properties Reports Record, First Quarter Revenues" <www.Brooks.net/ Q1_table.pdf> (posted Apr. 28, 1997). The market share is 11.4% if only basic local service and network access, based on FCC ARMIS Annual Summary Report 43-01, Michigan Bell Telephone Company, 1996, at Table I, rows 1010, 1020, are included in the Ameritech revenue figure. This number declines to 8.4% if toll network service is included, and declines to 7.9% if all revenues are included (row 1090).

competitors or resellers in Michigan providing local exchange service -- Brooks Fiber, MFS Intelenet/Worldcom, TCG, MCImetro, USN, AT&T and LCI. Several of these competitors, including Brooks Fiber, MFS, TCG and MCImetro, have fiber networks and local switches in Michigan. In total, however, CLECs have only six local switches in Michigan -- three in Detroit (operated by MFS, TCG and MCImetro), and one each in Grand Rapids, Traverse City and Lansing, all operated by Brooks Fiber -- compared with at least 435 local switches operated by Ameritech Michigan.[14] Profiles of the operational local exchange service competitors in Michigan follow.[15]

Brooks Fiber Communications

Brooks Fiber Communications entered the Michigan local exchange/access market in January of 1996 when it purchased City Signal. City Signal began operation in 1989, as a competitive access provider (CAP) in Grand Rapids. In 1993, City Signal installed a Nortel DMS-500 Class 3/4/5 switch, which enabled it to provide local, tandem, and carrier switching. In 1994, City Signal merged with long distance reseller, Teledial to form US Signal, which was certified to provide switched local service in Grand Rapids in October of 1994, and actually

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[14] Ameritech Brief at 10-11; MCI Comments at 2-3 (448 switches); Sprint Petition at 33 (440 switches). FCC ARMIS Annual Service Quality Report 43-05, Michigan Bell Telephone Company, 1996, at Table IV, rows 200, 201 identifies 435 local switches in use, while the FCC 1996 Common Carrier Statistics at Table 2.10 (1996) lists Michigan Bell as having 442 central office switches.

[15] In addition to those listed below, Ameritech cites WinStar as a current, facilities-based local exchange provider, and Building Communications and Coast-to-Coast as local exchange resellers operating in Michigan. Ameritech Brief at 74. WinStar does not yet have an approved local tariff, and the Department believes the only services it currently provides are CAP or transport services, not local exchange services. The Department has no independent information on Building Communications or Coast-to-Coast, but Ameritech does not attribute to either of them any substantial activity.

began offering service in August of 1995. Teledial and the US Signal name were sold to LCI in 1995, and the local services company was renamed City Signal, which was merged into Brooks Fiber Properties in early 1996. Brooks Fiber and Ameritech entered into a negotiated interconnection agreement on August 5, 1996, which was approved by the Michigan PSC in November and filed as approved and executed in December 1996. In addition to Grand Rapids, Brooks Fiber currently has facilities in Lansing, Ann Arbor, and Traverse City, and a total of three switches statewide in Michigan. Brooks Fiber provides service to both business and residential customers primarily in Grand Rapids, through a combination of its own facilities and loops leased from Ameritech. It is not engaged in local exchange resale in Michigan. Brooks had 21,786 lines in service in Grand Rapids, its principal service area, as of June 6, 1997, including 15,876 business lines and 5,910 residential lines, making it one of the two largest local competitors of Ameritech in Michigan.[16] Brooks provides 31% of its own access lines in Michigan, obtaining the remaining 69% from Ameritech, so that Brooks is the principal user of unbundled loops obtained from Ameritech in Michigan.[17] Brooks relies on Ameritech for at least some facilities, primarily loops, to reach 75% of all of its customers, including 61% of its business customers and 90% of its residential customers.[18] Brooks has also entered into agreements with long distance carriers, including AT&T and MCI, to provide the local exchange portion of an integrated service offering.

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[16] Brooks Opposition at 6-7.

[17] Id. at 6-7 and n.18, 9.

[18] Id. at 7; MPSC Consultation at 10.

MFS Intelenet/WorldCom

MFS is the nation's largest CAP, and has been operating in Detroit on a resale basis since 1991 and on a facilities basis since 1995. MFS has a fiber network and one switch in Detroit. It was certified to provide local service in Detroit in May of 1995, and state-wide on November 14, 1996. It has been offering switched local service and access services to business customers in Michigan since May 1996. MFS entered into a negotiated interconnection agreement with Ameritech on May 17, 1996, which was approved by the Michigan PSC and filed in approved, executed form in December 1996. MFS's recent merger with WorldCom creates an integrated, facilities-based local/LD company, and its earlier merger with UUNet allows it to include Internet access as part of a bundled offering. MFS Intelenet does not have any residential service customers in Michigan. According to MFS/WorldCom, 79% of MFS's business lines and 86% of is customers in Michigan are served on a resale basis, including resale of Centrex services, although MFS also has a small number of its loops of its own in Michigan, only 2.2% of its total, and has ordered some unbundled loops from Ameritech, accounting for the remaining 19%.[19]

Teleport Communications Group (TCG)

TCG is one of the nation's largest CAPs, and has been operating in that capacity in Detroit since 1993. TCG was granted certification to provide switched local service in April of 1995. TCG has a fiber network and a Class 5 switch in Detroit and is currently providing both local exchange and access services to business customers. Following a request for arbitration and a decision by the Michigan PSC, TCG and Ameritech filed an executed agreement which was approved by the Michigan PSC in February 1997. TCG has also signed an agreement with

[19] WorldCom Comments at 4, 5 n.10.

AT&T to provide local network access in several markets, including Detroit. TCG concentrates on large businesses that can be served over its own facilities, and as a result, although TGC uses some facilities obtained from Ameritech,[20] it currently has no unbundled loops or resold lines, and does not have any residential service customers in Michigan.

MCImetro

MCImetro is a subsidiary of MCI Telecommunications, created to provide local exchange and access services, primarily over its own facilities, to business and residential customers. MCImetro has fiber rings in Detroit and its suburbs of Warren and Auburn Hills, and a class 5 switch in Detroit. MCImetro was certified to provide switched local service in Michigan in March of 1995, and has been serving some business customers in Detroit since June of 1996, making use of its own facilities and preexisting Ameritech tariffs for resale. It is conducting a trial of residential service with a few customers using loops obtained from Ameritech. MCI launched NetworkMCI on September 12, 1996 in several large cities (including Detroit, Milwaukee, and Chicago), which offers local, long distance, data, conferencing, international long distance, paging, Internet access, and cellular on a single bill. Although MCI has requested interconnection and sought arbitration, and the MPSC issued an arbitration decision in December 1996, there remained unresolved issues between Ameritech and MCI. Therefore, to date neither MCI Telecommunications, nor any of its subsidiaries, has an approved interconnection agreement with Ameritech Michigan, although an agreement was finally signed on June 13, 1997.

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[20] TCG Comments at 25-26.

USN Communications

USN is a telecommunications reseller that was initially certified to provide service to some Detroit exchanges on August 22, 1996. On April 26, 1996, USN entered into a ten year interconnection agreement with Ameritech that commits it to be reselling a total volume of 10,000 residential lines and 100,000 business lines during each year after a "ramp-up" period ending December 31, 1997 for residential service, or 18 months after the service start date for business, subject to penalties for underutilization. USN's negotiated agreement with Ameritech was approved by the MPSC in January 1997 and filed as executed and approved in February 1997. USN markets to small and medium-sized business customers, and is currently offering service in at least four cities in Michigan: Grand Rapids, Southfield, Ann Arbor, and Flint.[21]

AT&T

AT&T, the nation's largest telecommunications company, has recently entered Michigan on a resale basis, serving residential as well as business customers. AT&T, after requesting interconnection with Ameritech and unsuccessfully attempting to negotiate an agreement, sought arbitration, and the MPSC issued an arbitration decision in November 1996. This did not lead immediately to an approved agreement, as Ameritech and AT&T continued to dispute certain issues. Ameritech and AT&T filed an executed agreement after further MPSC action in February 1997, and the MPSC approved that agreement in April 1997. AT&T's approved interconnection agreement addresses all three of the entry paths envisioned in the 1996 Act. AT&T has also begun operational testing of the facilities "platform" with Ameritech. This

[21] Jim Harger, "Another Hopeful Courts Local Phone Customers: USN Communications Targets Small and Medium-Sized Businesses," Grand Rapids Press, Mar. 15, 1997, at C7, 1997 WL 7865202.

appears to be AT&T's preferred near-term means of entry. Over the longer term, AT&T may also become a facilities-based provider in Michigan using its fixed wireless technology. It appears that AT&T's resale activities to date have made it one of the two largest local competitors of Ameritech in Michigan, although this competition is still on a very small scale.

LCI Communications

LCI is a large long distance reseller that has recently entered Michigan as a reseller of local services. It does not have an approved interconnection agreement with Ameritech, and is reselling service under existing tariffs. It is marketing to small and medium-sized business customers.

Certificate of Service

I hereby certify that I have caused a true and accurate copy of the foregoing Evaluation of the United States Department of Justice to be served on the persons indicated on the attached service list, by first class mail or hand delivery, on June 25, 1997.

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EXHIBIT 1

Affidavit of Marius Schwartz

COMPETITIVE IMPLICATIONS OF BELL OPERATING COMPANY ENTRY INTO LONG-DISTANCE TELECOMMUNICATIONS SERVICES

AFFIDAVIT OF MARIUS SCHWARTZ

May 14, 1997

TABLE OF CONTENTS

Professional Background

1. My name is Marius Schwartz. I am a Professor of Economics at Georgetown University. I received my B.Sc. degree with first-class honors from the London School of Economics and my Ph.D. in economics from the University of California at Los Angeles. My research areas are in industrial organization, antitrust and regulation. I have published on these subjects and have taught courses at Georgetown University and to executives and government officials in the U.S. and other countries.

2. From April 1995 to June 1996, I served as the senior staff economist at the President's Council of Economic Advisers responsible for antitrust and regulated industries. Much of my work was on regulatory reform in telecommunications, and I participated in the development of the Administration's policy leading up to the enactment of the 1996 Telecommunications Act. From 1980 to the present, I have served intermittently as a consultant to the Antitrust Division of the Department of Justice on a wide variety of competition matters. I have also consulted for the OECD, World Bank, USAID, and private clients. My curriculum vitae is attached to this affidavit.

Scope of Assignment

3. I have been asked by the Antitrust Division of the U.S. Department of Justice to analyze the economic conditions under which authorizing regional Bell Operating Company (BOC) provision of in-region interLATA telecommunications services ("BOC entry") would be consistent with the public interest in competition, under the entry standard of § 271 of the Telecommunications Act of 1996 ("Act"). I have also been asked for my opinion, in light of my analysis, regarding the Justice Department's general standard for evaluating BOC applications under § 271 that is described in the Department's comments filed with the Federal Communications Commission. As part of my analysis I have considered both the potential costs and benefits of authorizing interLATA entry by the BOCs, consistently with the specific provisions and overall competitive objectives of Act. I have not been asked to consider whether any individual BOC has met the requirements of § 271 in a particular state.

4. In connection with this assignment, I have drawn on the relevant economics literature and consulted with other academics, regulators, practitioners, and industry participants. I have also

reviewed numerous documents, including but not limited to: submissions in connection with the Motion to Vacate the MFJ that was filed by four BOCs in 1995; submissions in the FCC's proceedings to implement the 1996 Act's provisions on local competition, accounting and non-accounting safeguards, and reform of universal service and access charges; the FCC's relevant Orders; regulatory filings with state commissions; documents submitted to the Department of Justice pursuant to the pending mergers between Bell Atlantic and NYNEX, and SBC and Pacific Telesis; and numerous responses submitted to the letter request of Acting Assistant Attorney General Joel Klein issued on November 21, 1996, concerning the competitive impact of interLATA entry by the BOCs ("responses to Joel Klein letter").

5. My assessment is that the Department of Justice's entry standard strikes a good balance between properly addressing the competitive concerns raised by BOC entry, and realizing the benefits from such entry as rapidly as can be justified in light of these concerns. The Department's standard, therefore, is consistent with the public interest in competition reflected in the entry test of section 271 of the Telecommunications Act.

Summary of Analysis and Conclusions

6. The 1996 Act aims to increase competition in *all* telecommunications markets; for the first time, this includes local markets that today are largely regulated monopolies. It is therefore necessary to evaluate the effects of BOC entry not only on competition in long-distance services, but also in local services and in "integrated services" (the offering of both local and long-distance services—whether bundled or separately—by the same provider).

7. Under appropriate conditions, BOC entry holds the promise of yielding significant benefits to the BOCs and to consumers. The principal benefits may include: (a) reductions in retailing costs enabled by joint provision of local and long-distance services; (b) offering consumers valuable new options from dealing with providers of integrated services, e.g., the convenience of one-stop shopping for all their telecommunications requirements; and (c) increasing the degree of competition in long-distance services (both in interLATA services through BOC entry; and in intraLATA toll services in multi-LATA states that now lack dialing parity for entrants, since the Act requires intraLATA dialing